



**THE CITY OF NEW YORK
LAW DEPARTMENT**

MICHAEL A. CARDODOZ
Corporation Counsel

100 CHURCH STREET
NEW YORK, NY 10007

KIMBERLY M. SAVINO
Assistant Corporation Counsel
Phone: (212) 788-0987
Fax: (212) 788-9776
ksavino@law.nyc.gov

November 23, 2010

BY ECF

Honorable Andrew L. Carter, Jr.
United States Magistrate Judge
United States Courthouse
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Marco Molina v. City of New York, et al.
10 CV 04923 (ILG) (ALC)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney assigned to represent defendant City of New York ("City") in this matter. I write to respectfully request an enlargement of time from November 24, 2010, until January 24, 2011, for the City to answer or otherwise respond to the complaint. We apologize to the Court that this request is past due. Plaintiff's counsel consents to this application

I note for the Court's information that, according to the civil docket sheet, there was a summons issued for one of the individually named defendants in this action, Police Officer Megan Barone, on October 26, 2010, but the docket does not reflect whether service has been effected on Police Officer Megan Barone or Police Officer Domenico Scibilia, the second individually named defendant. A decision concerning this Office's representation of the individual defendants has not yet been made and, accordingly, this request for an extension of time is not made on Police Officer Barone or Police Officer Scibilia's behalf. However, given the time involved in determining the representation of police officers, and in the interest of judicial economy, we would hope that the court may, *sua sponte*, extend the time to answer on behalf of all defendants.

In the complaint, plaintiffs allege, *inter alia*, that on February 13, 2008, he was falsely arrested and searched by NYPD officers. Plaintiff further alleges that he was prosecuted by the Kings County District Attorney's Office with false and fabricated evidence and was acquitted after trial.

There are several reasons for seeking an enlargement of time. First, in accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need this additional time to investigate the allegations of the complaint. The complaint alleges that the Plaintiff was acquitted after trial. This office will be forwarding to plaintiff for execution a consent to the designation of the Corporation Counsel as plaintiff's agent for release of records sealed pursuant to New York Criminal Procedure Law §160.50. Pursuant to that statute, all official records concerning plaintiff's arrest and/or prosecution, including police records, are sealed. This office cannot obtain the records without the designation and release, and without the records, we cannot properly assess this case or respond to the complaint.

No previous request for an extension has been made by either party. Hopefully the initial conference scheduled for 10:00 am on Friday, January 28, 2011, will not be affected by this proposed extension. Accordingly, we respectfully request that defendant City's time to answer or otherwise respond to the complaint be extended from November 24, 2010 until January 24, 2011.

Thank you for your consideration of this request.

Respectfully submitted,

/s/

Kimberly M. Savino
Assistant Corporation Counsel

cc: Christopher D. Wright, Esq. (by ECF)